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2 UNITED STATES BANKRUPTCY COURT  
3 SOUTHERN DISTRICT OF NEW YORK

4 -----X  
5 In Re:

6 Chapter 11

7 LEHMAN BROTHERS Case No. 08-13555 (JMP)  
8 HOLDINGS, INC., et al, (Jointly Administered)  
9 Debtors.

10 -----X  
11  
12 \* \* \*HIGHLY CONFIDENTIAL\* \* \*

13 DEPOSITION OF IAN LOWITT

14 New York, New York

15 August 20, 2009  
16

17 Reported by:

18 MARY F. BOWMAN, RPR, CRR

19 JOB NO. 24043  
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August 20, 2009

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9:31 a.m.

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Deposition of IAN LOWITT, held at  
the offices of Jones Day, LLP, 222 East 41st  
Street, New York, New York, before Mary F.  
Bowman, a Registered Professional Reporter,  
Certified Realtime Reporter, and Notary Public  
of the State of New York.

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10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]

15 Q. Now, you currently are employed as the  
16 chief operating officer of Barclays Wealth  
17 Americas; is that correct?

18 A. That is correct.

19 Q. How long have you held that position?

20 A. Since April of this year.

21 Q. And when did you first start work for  
22 Barclays?

23 A. I joined Barclays I guess the Monday  
24 that the deal closed.

25 Q. That would be September 22nd?

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2 A. I believe that's correct.

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED] Director

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

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9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]

12 Q. Did he tell you anything else that you  
13 can remember now about that initial contact with  
14 Barclays and Lehman?

15 A. He also shared with me that there were  
16 eight individuals that Barclays deemed as critical  
17 to the transaction, and that I was one of those  
18 eight individuals.

19 Q. Who were the other seven?

20 A. The other seven, to the best of my  
21 recollection, was Mike Gelband, Eric Felder, Ajay  
22 Nagpal, Tom Humphrey, Hyung Lee, myself.

23 Q. Is Skip McGee the last one?

24 A. Skip McGee. And I -- Bart indicated  
25 to me that he was not going to be part of that

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group of eight.

[REDACTED]

Did there come a time when you began to discuss with Barclays the terms and conditions upon which you would be employed at Barclays after the transaction?

A. I met with Rich Richie at some point on early Tuesday morning.

Q. And tell me about your meeting with Mr. Richie. What did you say? What did he say?

A. To the best of my recollection, he indicated that they wanted me to be part of the transaction, that having me be part of their organization was important. [REDACTED]

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1 LOWITT - HIGHLY CONFIDENTIAL

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10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 Q. Did you at some point enter into a  
22 written agreement with Barclays concerning the  
23 terms and conditions of your employment by  
24 Barclays?

25 A. I did.



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2 Q. About when did you do that?

3 A. I think I did that on the Thursday  
4 evening.

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

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M [REDACTED]

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I [REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

Q. Mr. Lowitt, I have put before you what

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2 we have marked as Exhibit 216. Do you recognize  
3 the document?

4 A. I do.

5 Q. Is that your employment agreement with  
6 Barclays?

7 A. I don't know if it is an employment  
8 agreement. It is certainly the offer that I got  
9 from Barclays that I signed on the 18th that we  
10 talked about. I guess I'm just not sure what  
11 employment contract means, but yes, it is the  
12 agreement that I signed with Barclays.

13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
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22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]

1 LOWITT - HIGHLY CONFIDENTIAL

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 Q. Do you know if what was agreed to  
9 between the parties in their negotiating session  
10 with regard to this difference between the amount  
11 shown on the books and the price paid was an  
12 agreement in terms of a percentage of what was  
13 shown in the amount of the books or a raw number?

14 A. My recollection is that it was a  
15 number, not a percentage.

16 Q. What was the number?

17 A. My recollection is it was \$5 billion.

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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Q. And the difference between the amount  
of the repo and the cash proceeds was  
approximately \$5 billion, correct?

MR. HUME: Objection, lacks  
foundation.

A. It, it -- I mean it was in that  
region.

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Q. And what, as best you recall, is the value of those additional elements, dollar value?

A. The dollar value of the unencumbered collateral was in and around \$2 billion, and, you know, the 15c3 excess, my understanding of the deal that was reached vis-a-vis the 15c3 excess was around 750 to 800 million dollars.

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Q. As best you remember, what did  
Mr. McDade say to you about finding additional  
sources of value?

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A. I don't have a specific recollection  
of the conversation, but I would -- I would expect  
that he would have asked me where, if anywhere,  
were there additional sources of value we could  
include in a new transaction.

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Q. Did Mr. McDade give you a target  
number for additional sources of value? How much  
he needed to find?

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A. My recollection is between 3 and 4  
billion dollars.

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[REDACTED]

Q. The 15c3 lock-up piece, let me be sure I understand what you just said. As I understand it, the reason it takes place over a period of time is as trades settle and customer activity takes place, you are able to realize how much is

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2 surplus in 15c3, correct?

3 A. I don't know if it's so much trade  
4 settling, but 15c3 lock-up is sort of a regulatory  
5 requirement which establishes a set of rules  
6 which, based on customer assets and how they are  
7 custodied, determines an amount of excess that you  
8 need to hold against that.

9 And it is only in sort of the unwind  
10 of all of those customer positions that you can  
11 determine whether there is excess as calculated  
12 per the formula or whether the actual excess is a  
13 different number.

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

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Q. Do you know when during the week it was determined that that's how the repo would be resolved, that Barclays would keep the collateral and Lehman would keep the cash?

A. It was definitely part of -- I wasn't party to the negotiating sessions, but it was definitely part of the discussions that were occurring on the Friday.

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[REDACTED]

Q. And then two, "Non-actionable box as shown to Barclays on Friday afternoon (1.9 billion of collateral). Actual box is slightly bigger because it also contains Lehman debt."

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2 Do you see that?

3 A. I do.

4 Q. And do you recognize this to be two of  
5 the components of the value that was ultimately  
6 transferred to Barclays in the transaction?

7 A. I see this as two of the elements of  
8 the transaction, the repo transaction and the  
9 non-actionable box, which I think is shorthand for  
10 or just a different term for the unencumbered  
11 collateral.

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 Did you ever develop an understanding  
8 as to whether a \$2 billion accrual for comp was a  
9 good estimate?

10 A. My understanding of the 2 billion was  
11 that it was a negotiated number between Barclays  
12 and Lehman, that it included the cash bonus, as  
13 well as sort of stock and other forms of  
14 compensation.

15 So the fact that it was a \$2 billion  
16 number which was larger than the sort of accrual  
17 for cash bonus didn't surprise me.

18 Q. Is the effect of that enlargement of  
19 the number over the accrual for -- accrual for a  
20 cash bonus, to increase the consideration Barclays  
21 is shown to pay by assuming liabilities?

22 A. I don't see it in that way. I see it  
23 as an agreement that \$2 billion of compensation in  
24 the form of cash bonus and stock would be  
25 available for Lehman employees.